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Judicial Authority over *Mut'ah* for *Nusyuz* Wives: Ex Officio, Claim Modification, and Ultra Petitum Partium

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Abstract

Divorce gives rise to legal consequences for former spouses and children, including the right to *mut'ah*. A particular issue arises when a wife is found to have committed *nusyuz* and the judge modifies the form of *mut'ah* requested in the petitum. This study analyzes the legal basis for granting *mut'ah* to a wife found to have committed *nusyuz* in a wife-initiated divorce case; the limits of judges' ex officio authority to modify *mut'ah* from a vehicle to a monetary award in light of the ultra petitum partium principle; and the considerations underlying the determination of its amount. This normative legal research uses statutory, case, and conceptual approaches, with qualitative analysis through legal interpretation and reasoning. The findings show that the panel of judges granted *mut'ah* despite the *nusyuz* finding, considering the duration of the marriage and the existence of a child. The judges converted the claimed vehicle into a monetary award of IDR 36,000,000.00 because its ownership had not been sufficiently proven. This modification rested on ex officio authority, guided by appropriateness and the husband's financial capacity, yet it raises questions about judicial limits when the object awarded differs from the petitum. This study contributes to Islamic family law scholarship by clarifying the limits of ex officio authority in modifying *mut'ah* and its relationship with evidentiary considerations, appropriateness, financial capacity, and the ultra petitum partium principle.

Keywords

Ex Officio; *Mut'ah*; *Nusyuz*; Ultra Petitum Partium; Wife-Initiated Divorce.

Introduction

Divorce not only terminates the legal relationship between husband and wife but also gives rise to legal consequences concerning the fulfillment of the parties' rights following the dissolution of marriage, including the former wife's rights to 'iddah maintenance and *mut'ah* (consolatory payment), as well as the child's rights to care and financial support (Rahmawati et al., 2025). One of the rights arising from the legal consequences of divorce is *mut'ah*, namely a provision given by the former husband to the former wife who has been divorced by him, in the form of money, goods, or other forms of assistance, as an expression of respect and consolation following the dissolution of the marital relationship (Mahmud, 2020).

In Indonesian Islamic family law, the provisions concerning *mut'ah* are regulated, among others, in Article 149(a) of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), which stipulates that when a marriage is dissolved by talak (divorce pronounced by the husband), the former husband is obligated to provide an appropriate *mut'ah* to his former wife, either in the form of money or goods, unless the former wife is divorced qabla al-dukhul (before consummation of the marriage) (Ariyani & Patimah, 2021).

Meanwhile, Article 160 of the Compilation of Islamic Law (KHI) stipulates that the amount of *mut'ah* shall be determined based on the husband's financial capacity and the principle of appropriateness. This provision indicates that the determination of the amount of *mut'ah* is not based on a fixed nominal standard but rather requires consideration of the husband's financial circumstances and the adequacy of the provision for the former wife (Amelia et al., 2023). This provision demonstrates that the determination of *mut'ah* concerns not only the recognition of the former wife's entitlement but also the judicial considerations involved in determining the form and amount of the award.

The issue becomes more complex when *mut'ah* is claimed in a wife-initiated divorce (cerai gugat), while the wife is declared to have committed *nusyuz* (marital disobedience). This is because the Religious Chamber's Legal Formulation in Supreme Court Circular Letter (SEMA) No. 3 of 2018, in principle, allows the granting of *mut'ah* to a wife in a wife-initiated divorce case, provided that she is not proven to have committed *nusyuz*. Accordingly, the wife's *nusyuz* status constitutes a legal issue that must be considered in determining her eligibility to receive *mut'ah* following divorce (Fadil et al., 2024; Irawan, 2023).

This legal formulation raises a legal issue when, in a particular case, the judge declares the wife to have committed *nusyuz* but nevertheless grants *mut'ah* to her (Antuli & Ibrahim, 2025). Allegations of nusyuz have been identified as one of the recurring factors that leave former wives' post-divorce rights unaccommodated in Religious Court decisions (Yuni & Haries, 2024). This issue requires careful analysis because *mut'ah* cannot simply be equated with 'iddah maintenance or madhiyah (unpaid past maintenance). Each has a distinct legal basis, nature, and set of legal consequences. Therefore, a finding of *nusyuz* against the wife must be considered proportionately when assessing the legal grounds for granting *mut'ah* (Nelli et al., 2026).

This issue is reflected in the Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg. In this case, the plaintiff sought *mut'ah* in the form of a white Honda CR-Z ZF1 1.5 CVT vehicle manufactured in 2013. In its legal considerations, the panel of judges found that the plaintiff had

committed *nusyuz*, and consequently rejected her claims for 'iddah maintenance and madhiyah (unpaid past maintenance). Nevertheless, the panel of judges granted *mut'ah*, taking into consideration the duration of the marriage, which lasted approximately seven years and ten months, as well as the existence of a child born of the marriage. Accordingly, this decision reveals a legal issue concerning the grounds for granting *mut'ah* to a wife who has been found to have committed *nusyuz* in a wife-initiated divorce case.

Apart from this issue, the decision is also noteworthy because the panel of judges did not award *mut'ah* in the form of a vehicle, as requested by the plaintiff. Instead, the judges determined that *mut'ah* should be provided in cash amounting to IDR 36,000,000.00. This modification was based on the consideration that the evidence submitted was insufficient to establish whether the vehicle was the defendant's personal property or constituted marital joint property. The panel of judges subsequently took into account the principles of appropriateness and justice, the duration of the marriage, and the defendant's employment at a state-owned enterprise in determining the amount of *mut'ah*. The payment of *mut'ah* was also ordered to be made before the defendant could obtain the divorce certificate (*Putusan Pengadilan Agama Padang Nomor 959/Pdt.G/2025/PA.Pdg*, 2025).

The modification of the form of *mut'ah* raises an important issue of procedural law. Judges are not only required to render decisions that reflect substantive justice but must also consider the enforceability of such decisions to ensure that the rights granted can be effectively realized in practice (Sutiyoso, 2010). In examining and adjudicating civil cases, judges are, in principle, bound by the scope of the claims submitted by the parties. This limitation on judicial authority is reflected in Article 178 paragraph (3) of the Herziene Indonesisch Reglement (HIR), which prohibits judges from ruling on matters that have not been claimed or from awarding more than what has been sought by the parties. This provision forms the legal basis for the application of the ne ultra petita partium principle, which serves to safeguard legal certainty and ensure that the parties have the opportunity to defend their respective interests within the scope of the dispute submitted to the court. (Sasmito, 2016). In Religious Court practice, however, this principle frequently intersects with judges' ex officio authority, which is often invoked to decide matters beyond the plaintiff's request (Ali, 2024)

Therefore, the modification of the *mut'ah* claim from a vehicle as the object of the claim to a specified monetary amount must be properly characterized. Does such an action constitute an adjustment to the form of the claim submitted, an exercise of the judge's ex officio authority, or a form

of legal reasoning aimed at addressing the ambiguity in the evidence concerning the object sought? Answering this question is important because each characterization entails distinct legal grounds and limits on judicial authority.

Several previous studies have examined the granting of *mut'ah* and 'iddah maintenance in wife-initiated divorce cases, including issues concerning the rights of wives who have been found to have committed *nusyuz* (Pratama & Prasetya, 2023) examines the determination of *mut'ah* and 'iddah maintenance for a wife who has committed *nusyuz* through an analysis of a decision issued by the Lubuk Pakam Religious Court. Muhyiddin's study also investigates divorce resulting from the wife's *nusyuz* by analyzing the judicial considerations underlying a decision of a Religious Court. Meanwhile, the study (Ulfatunnisa et al., 2024) examines the post-divorce rights of wives who have been found to have committed *nusyuz*. These studies provide an important foundation for understanding the relationship between *nusyuz* and the fulfillment of wives' rights following divorce.

Nevertheless, these previous studies have not specifically examined the relationship between the granting of *mut'ah* to a wife who has been found to have committed *nusyuz* and the modification of the requested form of *mut'ah* from a vehicle to a monetary award within a single court decision. Accordingly, there remains an area of inquiry concerning the simultaneous examination of the legal grounds for granting *mut'ah* to a wife who has committed *nusyuz*, the limits of judicial authority in modifying the form of the requested award, and the legal considerations underlying the determination of the amount of *mut'ah*. This focus distinguishes the present study from previous research. The novelty of this study lies not merely in the particular court decision under examination but also in its analysis of the relationship between substantive law governing the right to *mut'ah* and procedural law governing the limits of judicial authority in granting claims.

Theoretically, this study employs the theory of judicial authority and the theory of substantive justice. The theory of judicial authority is used to analyze the scope of judicial discretion in examining and adjudicating claims for *mut'ah*, particularly when the form of the requested award cannot be established on the basis of the available evidence. Within this framework, the ex officio principle and the prohibition against ultra petita partium serve as important concepts for assessing whether the modification of the form of *mut'ah* remains within the scope of the parties' claims or instead exceeds the limits of judicial authority. Meanwhile, the theory of substantive justice is employed to evaluate the judges' considerations in determining the appropriateness and amount of *mut'ah*, taking into account the principles of fairness, the husband's financial

capacity, the duration of the marriage, and the specific circumstances of the parties. These two theoretical foundations are subsequently examined in conjunction with the provisions of Articles 149 and 160 of the Compilation of Islamic Law (KHI), Supreme Court Circular Letter (SEMA) No. 3 of 2018, and other relevant provisions of civil procedural law.

This study is significant from both theoretical and practical perspectives. Theoretically, it is expected to enrich the body of scholarship on Islamic family law, particularly regarding the legal position of *mut'ah* for a wife who has been found to have committed *nusyuz* and the limits of judicial authority in determining the form of its provision. Practically, this study is expected to provide considerations for Religious Court judges in adjudicating cases involving claims for *mut'ah* in the form of specific objects, particularly when the ownership or legal status of such objects cannot be adequately established through evidence.

Based on the foregoing background, this study aims to: (1) analyze the legal basis for granting *mut'ah* to a wife found to have committed *nusyuz* in a wife-initiated divorce case, as reflected in Decision Number 959/Pdt.G/2025/PA.Pdg.; (2) examine the limits of the judges' ex officio authority to modify the form of *mut'ah* from a vehicle to a monetary award in light of the ultra petitum partium principle; and (3) analyze the considerations underlying the determination of the amount of *mut'ah*. Furthermore, this study is expected to provide a better understanding for justice seekers and legal practitioners of the importance of formulating claims clearly and presenting evidence concerning the ownership and appropriateness of the requested objects.

Method

This study employs normative legal research, focusing on the analysis of legal norms and their application in Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg. The research adopts three approaches: the statutory approach, the case approach, and the conceptual approach. The statutory approach is used to examine legal provisions concerning *mut'ah*, *nusyuz*, judicial authority, and the prohibition against rendering decisions that exceed the claims submitted by the parties. The case approach is employed to analyze the legal reasoning and judicial ruling concerning the granting of *mut'ah* to a wife who has been found to have committed *nusyuz*, as well as the modification of the form of *mut'ah* from a vehicle to a monetary award. Meanwhile, the conceptual approach is used to examine the concepts of *ex officio* authority, the *ultra petita partium* principle, and substantive justice in the adjudication of divorce cases.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg, Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, the

Compilation of Islamic Law (KHI), Supreme Court Circular Letter Number 3 of 2018, and other relevant provisions of civil procedural law. Secondary legal materials comprise books, scholarly journal articles, research findings, and expert opinions addressing *mut'ah*, *nusyuz*, judicial authority, and the *ultra petita partium* principle. Tertiary legal materials include legal dictionaries and other reference sources used to clarify the legal terms and concepts examined in this study.

Legal materials were collected through library research and document study. The document study involved examining a copy of the court decision, particularly the sections concerning the case background, legal considerations, and judicial ruling. This examination was directed at identifying the *mut'ah* claim submitted by the plaintiff, the legal facts concerning *nusyuz*, the legal grounds underlying the judge's decision to modify the form of *mut'ah*, and the considerations supporting the determination of the monetary amount awarded. Furthermore, legal materials consisting of legislation, scholarly literature, and academic articles were collected through searches of relevant legal sources and academic publications.

The legal materials were analyzed qualitatively using prescriptive legal reasoning. The analysis was conducted in three stages. First, the study identifies and interprets the legal provisions governing the granting of *mut'ah* to wives in divorce proceedings, particularly where the wife has been found to have committed *nusyuz*. Second, it examines whether the judge's decision to modify the form of *mut'ah* from a vehicle to a monetary award complies with the limits of judicial authority, the *ex officio* principle, and the prohibition against *ultra petita partium*. Third, it evaluates the rationality of the judge's considerations in determining the amount of *mut'ah* based on the principles of appropriateness and the husband's financial capacity. The findings are subsequently organized systematically to formulate legal arguments and conclusions regarding the conformity of the judge's legal considerations and decision with the applicable legal provisions.

Literature Review

The granting of *mut'ah* to a wife who has been found to have committed *nusyuz* has attracted scholarly attention in Islamic family law research Pratama & Prasetya (2023) through an examination of Decision Number 3085/Pdt.G/2022/PA.Lpk, the study investigates the granting of *mut'ah* and 'iddah maintenance to a wife suspected of having committed *nusyuz*. The study employs a dogmatic juridical approach by examining statutory provisions, the Compilation of Islamic Law (KHI), and the judges' legal considerations. The findings indicate that the panel of judges continued to grant *mut'ah* and 'iddah maintenance on the grounds that the divorce resulted from persistent marital disputes rather than solely from the wife's

nusyuz. These findings demonstrate that the assessment of post-divorce rights cannot always be separated from the causes and circumstances surrounding the dissolution of the marriage. This is consistent with studies showing that nusyuz may be committed by either spouse and is closely intertwined with shiqaq, so that fault in marital breakdown is rarely attributable to one party alone (Apriyanti & Hasanah, 2025; Wardatun & Smith, 2020).

A similar study was conducted by Muhyiddin (2023) through an analysis of Decision Number 286/Pdt.G/2022/PA.Brb. The study examines the granting of *mut'ah* to a wife who has been found to have committed *nusyuz*, including the judges' considerations in determining the amount of the award. This study is relevant because it demonstrates the existence of judicial practices in which *mut'ah* is granted despite a finding of *nusyuz* on the part of the wife. Furthermore, Ulfatunnisa et al. (2024) analyze the post-divorce rights of a wife who has committed *nusyuz* through an examination of Decision Number 957/Pdt.G/2021/PA.Wtp. The findings indicate that a wife who has been found to have committed *nusyuz* is not entitled to 'iddah maintenance or madhiyah (unpaid past maintenance), but remains entitled to *mut'ah*. Taken together, these studies illustrate that the application of the legal consequences of *nusyuz* to a wife's post-divorce rights requires further analysis based on the distinct nature and legal grounds of each entitlement.

The issue of granting *mut'ah* in wife-initiated divorce cases has also been examined by Irwansyah et al. (2025). Their study analyzes the provisions governing *mut'ah* maintenance in wife-initiated divorce cases under Islamic law and Indonesian positive law. This study is important for explaining the evolving legal position of *mut'ah* in divorce proceedings initiated by the wife. Meanwhile, Karimani & Ahsan (2026) examine the granting of 'iddah maintenance and *mut'ah* in verstek wife-initiated divorce proceedings from the perspective of the Shafi'i School of Islamic jurisprudence, through an analysis of Decision Number 8/Pdt.G/2024/MS.Skl. Their study finds that the judge awarded 'iddah maintenance and *mut'ah* because the wife was not proven to have committed *nusyuz*. It also discusses the linkage between the fulfillment of these obligations and the withholding of the divorce certificate until the obligations have been discharged. Taken together, these studies enrich the discussion of the relationship between the procedural characteristics of wife-initiated divorce cases, the wife's *nusyuz* status, and the protection of former wives' economic rights.

From the perspective of judicial authority, Jamil & Nur (2022) examine the legal protection and justice afforded to the parties through the exercise of ex officio authority in verstek divorce decisions. Their study positions ex

officio authority as an instrument for protecting the wife's rights when court proceedings take place in the absence of one of the parties. Yuni (2021) similarly shows that judges at the Samarinda Religious Court invoke ex officio authority to award 'iddah maintenance and mut'ah, relying on PERMA No. 3 of 2017 together with SEMA No. 1 of 2017 in talak cases and SEMA No. 2 of 2019 in wife-initiated divorce cases.

Nurhidayati et al. (2022) specifically discuss the effectiveness of the ultra petitum partium principle in wife-initiated divorce cases before Religious Courts. Their findings reveal issues concerning the legal status of Supreme Court Circular Letter (SEMA) No. 3 of 2018 in judicial practice, particularly with regard to the scope of judicial authority to grant women's post-divorce rights that have not been expressly sought. These two studies demonstrate that the protection of women's rights following divorce must be analyzed in conjunction with the limits of judicial authority in adjudicating cases.

The relationship between ex officio authority and the ultra petitum partium principle has also been examined by Cahyani et al. (2024) through an analysis of Decision Number 2675/Pdt.G/2023/PA.Kab.Kdr. Their study investigates the exercise of ex officio authority in fulfilling women's economic rights following divorce, including 'iddah maintenance, *mut'ah*, child custody (*hadhanah*), and madhiyah (unpaid past maintenance). Meanwhile, Siwi et al. (2024) discuss the intersection of ex officio authority, the ultra petitum partium principle, the concept of judge-made law, and progressive law in divorce cases. Ali (2024) further argues that the departures from the petitum made through ex officio authority are intended to achieve balance and benefit, but that the scope of this authority should be expressly regulated to provide legal certainty and prevent conflict with the ultra petitum partium principle.

These studies provide a conceptual foundation for understanding the scope of judicial discretion, although their discussions do not specifically address the modification of the form of *mut'ah* sought in the petitum.

The fulfillment of former wives' rights following divorce has also been examined by Naim (2025) through a study of an interconnection system as an alternative mechanism for fulfilling the rights of women and children following court decisions. The study highlights difficulties in enforcing court decisions and proposes strengthening interinstitutional cooperation to optimize the payment of *mut'ah* and the fulfillment of children's rights. Furthermore, Rahmawati et al. (2025) examine the non-implementation of Islamic family law provisions concerning the fulfillment of former wives' rights in several Religious Courts. Their study finds that former husbands' non-compliance, the complexity of enforcement proceedings, and weaknesses in law enforcement constitute obstacles to the fulfillment of women's rights following divorce. Taken together, these studies

demonstrate that the protection of former wives' rights concerns not only the recognition of such rights in court decisions but also the legal certainty and effectiveness of their enforcement. Fadil et al. (2024) applying Soekanto's theory of legal effectiveness at the Malang Religious Court, attribute this ineffectiveness mainly to low legal awareness and a preference for informal settlement, while Yuni & Haries (2024) find that iddah maintenance is the right most frequently neglected, particularly in default (verstek) judgments.

Salma et al. (2025) specifically examine judges' ex officio authority in protecting the rights of women and children following divorce at the Manado Religious Court. Using an empirical legal approach, the study finds that the exercise of ex officio authority has not always been consistent. The obstacles identified include the former husband's financial circumstances and difficulties in enforcing court decisions. These findings reinforce the importance of judicial authority in providing legal protection while also demonstrating that its exercise must take into account the specific circumstances of each case and the applicable legal limits.

Based on these previous studies, three major issues can be identified in the existing literature: the granting of *mut'ah* to wives who have been found to have committed *nusyuz*, the exercise of ex officio authority in divorce proceedings, and the application of the ultra petitum partium principle in protecting women's rights. Nevertheless, previous studies have not specifically examined the modification of a requested *mut'ah* award from a specific object to a monetary amount on the grounds that the evidence concerning the object's ownership status is insufficient. This issue is distinct from the exercise of ex officio authority to grant a right that has not been claimed at all. In the case examined in this study, *mut'ah* was expressly sought by the plaintiff; however, the judge determined that it should be provided in a form different from the object specified in the claim.

Accordingly, this study offers an original contribution by examining the limits of judicial authority to modify a claim for *mut'ah* from a vehicle to a monetary award through an analysis of the relationship between the conformity of the judicial ruling with the petitum, the ex officio principle, and the prohibition against ultra petitum partium. This analysis is also connected to the granting of *mut'ah* to a wife who has been found to have committed *nusyuz*, as well as the judges' considerations in determining the amount of *mut'ah* based on appropriateness and the husband's financial capacity. Thus, this study not only examines whether a wife who has been found to have committed *nusyuz* may still be entitled to *mut'ah*, but also evaluates the legal grounds and limits of judicial authority in determining a form of *mut'ah* that differs from the form requested.

Result

Mapping of the *Mut'ah* Claim and the Judicial Ruling

Based on an examination of Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg., it was found that the plaintiff sought *mut'ah* in the form of a specific item, namely one white metallic Honda CR-Z ZF1 1.5 CVT vehicle manufactured in 2013. This claim was submitted together with claims for 'iddah maintenance and madhiyah (unpaid past maintenance). However, the panel of judges did not grant *mut'ah* in the form of the vehicle as requested. Instead, it awarded *mut'ah* in cash in the amount of IDR 36,000,000.00.

The difference between the plaintiff's claim and the judicial ruling is presented in the following table.

Table 1. Comparison between the Plaintiff's Claims and the Judicial Ruling

Subject of Claim	Plaintiff's Claim	Judicial Ruling	Outcome
'Iddah maintenance	IDR 30,000,000.00	Rejected	Not granted
Madhiyah maintenance during the marriage	IDR 10,000,000.00	Rejected	Not granted
Madhiyah maintenance during the separation period	IDR 37,000,000.00	Rejected	Not granted
Mut'ah	One white metallic Honda CR-Z ZF1 1.5 CVT, registration No. B 18 RJ, manufactured in 2013	Cash payment of IDR 36,000,000.00	Granted in a modified form
Payment of *mut'ah* before collection of the divorce certificate	Requested by the plaintiff	Ordered in the judicial ruling	Granted

Source. Compiled from Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg

The table demonstrates that the modification made by the panel of judges concerned the form or object of *mut'ah*, rather than the claim for *mut'ah* itself. The plaintiff was still awarded *mut'ah* as claimed, but not in the form

of a vehicle; instead, it was awarded in cash. Accordingly, the central legal issue is not merely whether judges may grant *mut'ah*, but whether they have a legal basis and the requisite authority to modify the form of *mut'ah* sought by the plaintiff.

This finding is significant because the claim for *mut'ah* was expressly included in the petitum. Therefore, the modification of the form in which *mut'ah* is awarded must be analyzed separately from the issue of granting rights that have not been sought by the parties to the proceedings.

The Determination of *Nusyuz* and Its Legal Consequences for Post-Divorce Rights

In its legal considerations, the panel of judges found that the plaintiff had committed conduct that could be classified as *nusyuz*. This finding was based on the facts established during the trial concerning the plaintiff's relationship with another man who was her colleague. The panel considered documentary evidence and witness testimony, which, in the judges' assessment, had not been refuted by the plaintiff.

On the basis of this finding, the panel of judges rejected the claims for 'iddah maintenance and madhiyah maintenance. Nevertheless, the panel continued to award *mut'ah* to the plaintiff. The differing treatment of these three types of post-divorce rights is presented in the following table.

Table 2. Judges' Considerations Regarding Post-Divorce Rights of a Wife Found to Have Committed *Nusyuz*

Type of Right	Principal Judicial Considerations	Judicial Outcome
'Iddah maintenance	The plaintiff was found to have committed conduct classified as *nusyuz*.	Rejected
Madhiyah maintenance	The plaintiff was found to have committed *nusyuz* and was therefore considered by the judges to be ineligible for such maintenance.	Rejected

Mut'ah	Despite the finding of *nusyuz*, the plaintiff had been married for approximately seven years and ten months, and the marriage had produced one child.	Granted in cash in the amount of IDR 36,000,000.00

Source: Compiled from Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg

The findings presented in Table 2 indicate that the panel of judges did not apply the legal consequences of *nusyuz* uniformly to all post-divorce rights. The finding of *nusyuz* served as the basis for rejecting the claims for 'iddah maintenance and madhiyah maintenance, but did not automatically preclude the judges from considering the granting of *mut'ah*.

In determining the entitlement to *mut'ah*, the panel of judges relied on different considerations. The judges emphasized that the plaintiff had shared a marital life with the defendant from February 18, 2018, until the judgment was delivered on December 18, 2025, a period of approximately seven years and ten months, and that the marriage had produced one child. On the basis of the duration of the marriage and the marital life shared by the parties, the judges considered that the granting of an appropriate *mut'ah* remained warranted.

This reasoning illustrates a distinction between maintenance obligations relating to the fulfillment of needs during a specific period and *mut'ah* as a provision granted following divorce. Nevertheless, the legal basis for this distinction requires further examination, particularly in light of the provisions of the Compilation of Islamic Law (KHI) and the Religious Chamber's Legal Formulation in Supreme Court Circular Letter (SEMA) No. 3 of 2018. Accordingly, the finding of *nusyuz* in this case should not be analyzed merely as grounds for rejecting all post-divorce rights; rather, it must be assessed in light of the distinct legal nature of each entitlement claimed.

Modification of the Form of *Mut'ah* from a Vehicle to a Monetary Award

The principal finding of this study lies in the panel of judges' considerations in modifying the form of *mut'ah* from a vehicle to a monetary award. In its legal considerations, the panel of judges stated that the claim for *mut'ah* in the form of a car did not satisfy the requirements of appropriateness and fairness because the plaintiff neither explained nor established through evidence that the vehicle constituted the defendant's separate property or marital joint property owned by the plaintiff and the defendant.

Furthermore, the plaintiff did not submit any evidence concerning the defendant's income. Nevertheless, the panel of judges took into consideration the fact that the defendant was employed by a state-owned enterprise, namely PT Adhi Karya. Having regard to these circumstances, the panel of judges independently determined the amount of *mut'ah* at IDR 36,000,000.00, based on the principles of justice, appropriateness, and the husband's financial capacity.

The sequence of the judges' considerations is summarized in the following table.

Table 3. Grounds for the Judges' Decision to Modify the Form of *Mut'ah*

Aspect Considered	Findings in the Judgment	Consequences for the Determination of *Mut'ah*
Requested object of *mut'ah*	A 2013 Honda CR-Z ZF1 1.5 CVT vehicle	The judges did not directly grant the vehicle as the object of *mut'ah*.
Ownership status of the vehicle	The plaintiff neither explained nor established through evidence that the vehicle constituted the defendant's separate property or marital joint property.	The vehicle was considered insufficiently supported by the required evidence.
Husband's financial capacity	The plaintiff did not establish the defendant's income through evidence; however, the defendant was known to be employed by PT Adhi Karya.	The judges nevertheless took the defendant's employment into consideration when determining *mut'ah*.
Legal basis for determination	Article 160 of the Compilation of Islamic Law (KHI), Article 41(c) of the Marriage Law, and Supreme Court Regulation (PERMA) No. 3 of 2017.	The judges determined *mut'ah* based on the principles of appropriateness and justice.

Form and amount of *mut'ah*	A monetary award of IDR 36,000,000.00	The requested vehicle was replaced with a cash payment.

Source. Compiled from Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg

Table 3 demonstrates that the modification of the form of *mut'ah* was not made without justification. The panel of judges linked the uncertainty surrounding the vehicle's ownership status to the principle of appropriateness in granting *mut'ah*. The judges subsequently selected a form of provision that they considered more feasible to determine with certainty, namely a monetary award.

However, an evidentiary issue requires closer examination. The failure to establish the vehicle's ownership status does not necessarily prove that the defendant lacked the financial capacity to provide *mut'ah*. Conversely, the defendant's employment at a state-owned enterprise does not, in itself, establish the amount of his income or his actual financial capacity. Accordingly, two distinct evidentiary issues must be distinguished: proof of the ownership status of the object claimed as *mut'ah* and proof of the husband's financial capacity.

A further issue concerns the basis for determining the amount of IDR 36,000,000.00. The panel of judges referred to the duration of the marriage, the defendant's employment, and the principles of appropriateness and justice as the grounds for its determination. Nevertheless, the reasoning set out in the judgment does not provide a detailed explanation of the calculation method or quantitative benchmarks linking these facts to the amount of IDR 36,000,000.00. This constitutes one of the significant findings of the study because the determination of *mut'ah* concerns not only the judges' authority to modify the form of its provision but also the transparency of the basis on which its amount is determined.

The Exercise of Ex Officio Authority and the Limits of the Ultra Petitum Partium Principle

In this case, the panel of judges explicitly invoked the term ex officio when determining the form and amount of *mut'ah*. The exercise of this authority is reflected in the judges' reasoning that the claim for *mut'ah* in the form of a vehicle did not satisfy the requirements of appropriateness and fairness. Consequently, the judges determined that *mut'ah* should be provided in cash in the amount of IDR 36,000,000.00.

However, the exercise of ex officio authority must be distinguished from the question of whether the judicial ruling exceeded the claims submitted (ultra petitum partium). In this case, the plaintiff had expressly sought

mut'ah, although the requested form was a specific vehicle. Accordingly, the judges did not create an entirely new category of entitlement that had not been claimed; rather, they granted the claim for *mut'ah* in a different form.

The preliminary assessment of these two principles is presented in the following table.

Table 4. Preliminary Analysis of Ex Officio Authority and the Ultra Petitum Partium Principle

Assessment Parameter	Assessment Parameter	Assessment Parameter
Facts of the Case	Facts of the Case	Facts of the Case
Preliminary Legal Implications	Preliminary Legal Implications	Preliminary Legal Implications
Existence of a claim for *mut'ah*	Existence of a claim for *mut'ah*	Existence of a claim for *mut'ah*
Mut'ah in the form of a vehicle was expressly included in item 3.4 of the petitum.	*Mut'ah* in the form of a vehicle was expressly included in item 3.4 of the petitum.	*Mut'ah* in the form of a vehicle was expressly included in item 3.4 of the petitum.
The granting of *mut'ah* falls within the scope of the claim.	The granting of *mut'ah* falls within the scope of the claim.	The granting of *mut'ah* falls within the scope of the claim.

Source. Compiled from Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg

Based on these findings, the issue of ultra petitum partium cannot be resolved merely by stating that the plaintiff had sought *mut'ah*. Although the type of entitlement granted remained the same, there was a discrepancy between the object sought by the plaintiff and the object specified in the judicial ruling. Therefore, the analysis must focus on whether the modification constituted an adjustment to the claim that remained within the scope of the proceedings or, instead, amounted to an award exceeding the limits of the petitum.

On the other hand, the exercise of ex officio authority by judges cannot automatically be regarded as justifying every modification of the claims submitted by the parties. Such authority must remain within the framework of procedural law, substantive legal grounds, and the protection of the parties' rights to present and substantiate their respective arguments. Accordingly, the exercise of ex officio authority and the

examination of compliance with the ultra petitum partium principle are interrelated issues, but they are not identical.

These findings provide a basis for assessing whether the panel of judges' reasoning in the case under examination reflects a proportionate exercise of judicial authority or whether it raises unresolved questions concerning the boundary between judicial law-making and the prohibition against granting relief that has not been sought by the parties.

Discussion

The Rationale for Granting *Mut'ah* to a Wife Found to Have Committed *Nusyuz*

One of the prominent legal issues arising from Decision of the Padang Religious Court Number 959/Pdt.G/2025/PA.Pdg. concerns the granting of *mut'ah* to a wife whom the panel of judges found to have committed conduct constituting *nusyuz*. This issue is noteworthy because the panel of judges adopted different approaches to the claims for *'iddah* maintenance, *madhiyah* maintenance, and *mut'ah*. The claims for *'iddah* maintenance and *madhiyah* maintenance were rejected on the grounds that the plaintiff had been found to have committed *nusyuz*, whereas the claim for *mut'ah* was nevertheless granted in the form of a monetary award.

The rationale underlying the judges' decision to grant *mut'ah* was based on the duration of the marriage, which lasted approximately seven years and ten months, and the fact that the marriage had produced one child. The judges considered the parties' shared marital experience to constitute a basis of appropriateness for granting *mut'ah*. Accordingly, the judges' considerations did not rest solely on the plaintiff's status as a wife found to have committed *nusyuz*, but also took into account the duration of the marital relationship and the family life experienced by the parties.

These considerations demonstrate that the panel of judges distinguished the legal character of *mut'ah* from that of *'iddah* maintenance and *madhiyah* maintenance. *Mut'ah* was considered a provision granted following divorce, the determination of which takes into account the principles of appropriateness and the husband's financial capacity. Meanwhile, the claims for *'iddah* maintenance and *madhiyah* maintenance in this case were assessed by taking the plaintiff's *nusyuz* status into consideration. This distinction may be understood as an attempt by the judges to assess each entitlement according to its respective legal character and basis, rather than treating the wife's *nusyuz* status as a ground that automatically extinguishes all post-divorce rights.

Nevertheless, these considerations require examination in light of the applicable legal provisions. Article 149(a) of the Compilation of Islamic Law (KHI) regulates the provision of *mut'ah* by a former husband to his former wife as a consequence of the dissolution of marriage by *talak*, except in cases of *qabla al-dukhul*. Article 84 of the KHI, which defines a wife's nusyuz and suspends the husband's maintenance obligations during that period, must also be read alongside these provisions (Izzah, 2021). Meanwhile, Article 160 of the KHI stipulates that the amount of *mut'ah* must be determined in accordance with the principles of appropriateness and the husband's financial capacity. On the other hand, the Religious Chamber's Legal Formulation in Supreme Court Circular Letter (SEMA) No. 3 of 2018 provides that, in wife-initiated divorce cases, a wife may be awarded *mut'ah* and *'iddah* maintenance provided that she has not been proven to have committed *nusyuz*.

In the case under examination, the plaintiff was found to have committed *nusyuz* but was nevertheless awarded *mut'ah*. This circumstance reveals an interpretative issue concerning the relationship between the provisions governing *mut'ah*, the legal consequences of *nusyuz*, and judicial authority to protect women's rights following divorce. The judges' reference to Article 41(c) of the Marriage Law and Supreme Court Regulation (PERMA) No. 3 of 2017 indicates that they also adopted an approach aimed at providing legal protection to women involved in judicial proceedings.

However, such a protective approach must be applied proportionately. Empirical evidence from Indonesian Islamic courts suggests that judges' support for gender-sensitive adjudication may partly stem from benevolent (paternalistic) attitudes and varies by the judge's gender (Halimatusa'diyah & Triana, 2024), which underscores the need for such protection to be grounded in explicit legal reasoning rather than judicial disposition alone. The protection of women in judicial proceedings does not, in itself, eliminate the judges' obligation to consider the facts relating to *nusyuz* and the relevant legal provisions. Conversely, the fact of *nusyuz* should not be interpreted without distinguishing the legal character of each post-divorce entitlement. Therefore, the granting of *mut'ah* in this case demonstrates the need for legal reasoning that clearly explains the relationship between the wife's *nusyuz* status, the legal basis for granting *mut'ah*, and the principle of appropriateness.

Accordingly, the principal issue is not merely whether a wife found to have committed *nusyuz* may receive *mut'ah*, but rather how the judges establish the legal grounds for granting *mut'ah* in such circumstances. This decision demonstrates that the duration of the marriage and the existence of a child were relied upon as grounds of appropriateness. Nevertheless, to provide a stronger normative foundation for these considerations, the judges

should have explained in greater detail how those grounds relate to the formulation contained in SEMA No. 3 of 2018 (Mahkamah Agung Republik Indonesia, 2018).

The Rationale for Modifying the Form of *Mut'ah* from a Vehicle to a Monetary Award

The next issue concerns the panel of judges' decision to modify the form of *mut'ah* sought by the plaintiff, from a vehicle to a monetary award of IDR 36,000,000.00. This modification was based on the consideration that the plaintiff had neither explained nor established through evidence whether the Honda CR-Z vehicle sought as *mut'ah* constituted the defendant's separate property or marital joint property. In the panel of judges' view, this circumstance meant that the claim for *mut'ah* in the form of a vehicle did not satisfy the requirements of appropriateness and fairness.

From the perspective of legal reasoning, this consideration demonstrates that the judges sought to avoid awarding an object whose ownership status was unclear. Designating a vehicle as *mut'ah* without establishing the legal status of its ownership could potentially give rise to difficulties in enforcing the judgment. Therefore, replacing the form of the award with a monetary payment may be regarded as an effort to determine an obligation that is more concrete and capable of precise identification.

Nevertheless, two aspects of evidence must be distinguished. First, evidence concerning the ownership status of the vehicle sought as the object of *mut'ah*. Second, evidence concerning the husband's financial capacity to fulfill the obligation to provide *mut'ah*. These two aspects do not give rise to the same legal consequences. The failure to establish the vehicle's ownership status does not necessarily demonstrate that the husband lacks the financial capacity to provide *mut'ah*. Conversely, the husband's employment at a state-owned enterprise does not automatically establish the amount of his income or his actual financial capacity.

In this case, the panel of judges acknowledged that the plaintiff had not submitted any evidence concerning the defendant's income. Nevertheless, the defendant's employment at PT Adhi Karya was still taken into consideration as one of the grounds for determining *mut'ah*. The judges subsequently determined the amount at IDR 36,000,000.00 based on the principles of appropriateness, justice, and the husband's financial capacity. This consideration demonstrates the exercise of judicial assessment in circumstances where concrete evidence of the defendant's income was unavailable.

Article 160 of the KHI provides a legal basis for determining *mut'ah* by taking into account the principles of appropriateness and the husband's financial capacity. This provision allows judges to assess the specific

circumstances of the parties. However, such discretion does not mean that judges may determine the amount arbitrarily without explaining the grounds for their decision. Ideally, the determination of the amount of *mut'ah* should demonstrate a rational relationship between the husband's financial circumstances, the duration of the marriage, the needs or appropriateness of the provision, and the amount awarded.

In the present case, the duration of the marriage and the defendant's employment were among the considerations expressly mentioned by the panel of judges. However, the judgment does not explain in detail the calculation method linking those facts to the amount of IDR 36,000,000.00. This lack of explanation does not necessarily establish that the amount was inappropriate; rather, it indicates that the basis for quantifying *mut'ah* has not been explained transparently. Such transparency is essential to enable the parties to understand the reasons underlying the determination of the amount and to allow the judgment to be examined from both academic and legal perspectives.

Accordingly, modifying the form of *mut'ah* into a monetary award may be understood as a measure intended to provide certainty regarding the object of the obligation. However, certainty concerning the form of the provision must be accompanied by clarity regarding the basis for determining its amount. These two aspects are inseparable components of determining *mut'ah* in accordance with the principles of appropriateness and justice.

The Limits of Judges' *Ex Officio* Authority and the *Ultra Petitum Partium* Principle

The modification of the form of *mut'ah* in this case also raises an issue concerning the limits of judicial authority. The panel of judges explicitly referred to the exercise of *ex officio* authority when determining *mut'ah* in the form of a monetary award amounting to IDR 36,000,000.00. The exercise of this authority must be analyzed by considering the relationship between judicial authority to provide legal protection and the prohibition against granting relief beyond that sought by the parties.

Article 178 paragraph (3) of the Herziene Indonesisch Reglement (HIR) prohibits judges from rendering decisions on matters that have not been claimed or from awarding more than what has been sought. This principle is known as the *ultra petitum partium* principle. It concerns the limits of judicial examination and the parties' legal certainty regarding the subject matter in dispute. In civil proceedings, judges are, in principle, required to examine and decide cases within the scope of the claims submitted by the parties.

Nevertheless, the application of this principle must take into account the nature of the claim in the case under examination. The plaintiff expressly sought *mut'ah* in item 3.4 of the petitum. Accordingly, the entitlement to *mut'ah* was not granted in the absence of a request. The difference concerned the form of its provision: the plaintiff sought a specific vehicle, whereas the judges determined that *mut'ah* should be provided in the form of a monetary award.

This circumstance demonstrates that an assessment of compliance with the *ultra petitum partium* principle cannot be based solely on whether a claim for *mut'ah* was submitted. The assessment must also consider whether modifying the object from a vehicle to money may still be regarded as an adjustment to the same claim or whether it has resulted in an award involving an object different from that sought. In other words, the fact that the same type of entitlement is involved does not necessarily mean that the object of the claim is also the same.

On the other hand, *ex officio* authority cannot be understood as an unlimited power. Article 41(c) of the Marriage Law provides a basis for the court to determine certain obligations to be imposed on a former husband following divorce. Meanwhile, PERMA No. 3 of 2017 provides guidelines for judges in adjudicating cases involving women in conflict with the law. These two legal bases must be interpreted systematically alongside the procedural rules governing the limits of the claims submitted by the parties.

In this case, the panel of judges exercised its *ex officio* authority to determine the form and amount of *mut'ah*. However, the judgment does not provide an in-depth explanation of why such authority could be exercised to modify the object of *mut'ah* that had been specifically identified in the petitum. Therefore, the use of the term *ex officio* in the judicial reasoning does not, in itself, resolve the question of whether the ruling complies with the *ultra petitum partium* principle.

In the view of this study, three stages of assessment are necessary. First, it must be established that the entitlement granted falls within the scope of the plaintiff's claim. Second, it must be assessed whether modifying the form of the award was necessary because the object sought could not be determined on the basis of the available evidence. Third, it must be examined whether the modification remained within the limits of judicial authority under the applicable procedural law and relevant substantive legal provisions.

Through this assessment, it can be affirmed that *ex officio* authority and the *ultra petitum partium* principle are not two principles that must necessarily be placed in opposition to one another. Rather, they must be applied in a

balanced manner. Judicial authority may be exercised to ensure legal protection and substantive justice, but its exercise must still be accompanied by legal reasoning that explains the limits of such authority and the grounds for departing from the form of relief sought by the parties.

Implications of the Decision for Religious Court Practice

The findings in this case have implications for the practice of adjudicating divorce cases, particularly when claims for post-divorce rights are submitted in the form of specific objects. In practice, claims for *mut'ah* are not always submitted in the form of money. Parties may seek specific objects as a form of provision, including vehicles or other items of economic value. This circumstance requires judges to carefully examine the status of the object, the basis of its ownership, and the possibility of enforcing the obligation if the claim is granted.

First, this case demonstrates the importance of clearly identifying the object of *mut'ah* when drafting a statement of claim. Where *mut'ah* is sought in the form of a specific object, the claimant should describe the object's identity and explain its relevance to the obligation imposed on the opposing party. Such clarity assists judges in determining whether the requested object may be designated as *mut'ah* and whether sufficient evidence has been presented concerning its status.

Second, this case demonstrates the need to distinguish between evidence concerning the object of *mut'ah* and evidence concerning the husband's financial capacity. In determining *mut'ah*, judges should not merely establish whether ownership of the requested object can be proven. They must also obtain an adequate understanding of the financial capacity of the party upon whom the obligation is imposed. This is important to ensure that the determination of *mut'ah* is not only certain in terms of its form but also proportionate in terms of its amount.

Third, this decision highlights the importance of transparent legal reasoning when judges exercise their *ex officio* authority. Where judges determine a form of provision that differs from the petitum, the judicial reasoning should explain the legal basis for their authority, the grounds for the modification, and the relationship between that modification and the claim submitted. Such an explanation is necessary to maintain a balance between protecting women's rights following divorce and ensuring legal certainty for the party required to fulfill the obligation.

Fourth, this case draws attention to the application of the law concerning *nusyuz*. Judges should explain separately the legal consequences of *nusyuz* for each type of post-divorce entitlement. This distinction is important to ensure that the considerations concerning *'iddah* maintenance, *madhiyah* maintenance, and *mut'ah* are not conflated. In this way, a judgment can

clearly demonstrate the legal grounds for rejecting one entitlement while granting another.

These implications are not limited to cases involving *mut'ah* in the form of a vehicle. Similar issues may arise when a party seeks *mut'ah* in the form of land, jewelry, a house, or another object whose ownership status is disputed. In such circumstances, judges must consider the relationship between the object of the claim, evidence of ownership, financial capacity, and the limits of their authority in rendering a decision. Therefore, the findings of this study may serve as an analytical framework for other cases with similar characteristics.

The Contribution of the Study to the Development of Legal Scholarship

This study contributes to the development of Islamic family law and Religious Court procedural law scholarship by analyzing the relationship between the granting of *mut'ah*, the wife's *nusyuz* status, modification of the form of the object sought, *ex officio* authority, and the *ultra petitum partium* principle. This contribution can be explained in three respects.

First, from a conceptual perspective, this study broadens the discussion of *mut'ah* by positioning the form of the object awarded as part of the legal analysis. Existing studies on *mut'ah* have largely focused on its legal basis, wives' post-divorce rights, and the determination of its amount. This study adds the issue of modifying the object of *mut'ah* specifically sought by a party to the proceedings. Accordingly, the analysis of *mut'ah* is not limited to whether an entitlement exists but also encompasses the form in which that entitlement is fulfilled and the limits of judicial authority in determining it.

Second, from a procedural law perspective, this study offers an analytical framework for distinguishing between granting an entitlement that has not been sought and modifying the form in which an entitlement that has already been sought is fulfilled. This distinction is important when examining the application of the *ultra petitum partium* principle. This study demonstrates that the inclusion of a claim for *mut'ah* in the petitum does not, in itself, resolve the issue when the judicial ruling specifies a different object. Therefore, an analysis of the limits of judicial authority must take into account the type of entitlement sought, the form of the object claimed, the grounds for the modification, and the legal basis relied upon by the judges.

Third, from a practical perspective, this study provides recommendations for judges and legal practitioners in formulating and examining claims for *mut'ah*. Judges should explain the legal basis for modifying the form of the provision, the relationship between evidence of ownership of the object and the husband's financial capacity, and the method used to determine the

amount of *mut'ah*. Meanwhile, the drafting of statements of claim should take into account the need to clearly identify the object and the legal grounds for the claim in order to prevent uncertainty during the examination and enforcement of the judgment.

Accordingly, the principal contribution of this study lies in developing an analytical framework concerning the limits of judicial authority in determining *mut'ah* when the object sought cannot be adequately established through evidence. This framework connects substantive Islamic family law with the principles of civil procedural law, while placing the protection of post-divorce rights in a balanced relationship with legal certainty and the rights of the parties.

Conclusion

Based on the research findings, the principal legal issue in this case concerns the exercise of the judge's ex officio authority to modify the form of mut'ah requested in the petitum, from a vehicle to a monetary award of IDR 36,000,000.00. This modification was based on the failure to establish the vehicle's ownership status and considerations of appropriateness, notwithstanding the finding that the wife had committed nusyuz. The judges nevertheless considered granting mut'ah by taking into account the duration of the marriage and the existence of a child. However, the alteration of the object of the award raises questions concerning the limits of ex officio judicial authority and the application of the principle of ultra petitum partium. This study emphasizes that the exercise of ex officio authority in determining mut'ah must remain within the boundaries of the petitum while taking into account legal certainty, evidentiary requirements, and the husband's financial capacity. Accordingly, the determination of mut'ah should not only pursue substantive justice but also ensure consistency between the parties' claims and the court's ruling.

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